

Development Consent

Section 80 of the *Environmental Planning & Assessment Act 1979*

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), approve the Development Application referred to in Schedule 1, subject to the conditions in Schedules 2 to 6.

These conditions are required to:

- (i) Prevent, minimise, and/or offset adverse environmental impacts;
- (ii) Set standards and performance measures for acceptable environmental performance;
- (iii) Require regular monitoring and reporting; and
- (iv) Provide for the on-going environmental management of the development.

Diane Beamer, MP
**Minister Assisting the
Minister for Infrastructure and Planning
(Planning Administration)**

Sydney,

2003

File No. S02/02246

SCHEDULE 1

Development Application:	DA-410-11-2002.
Applicant:	United Collieries Pty. Ltd.
Consent Authority:	Minister Assisting the Minister for Infrastructure & Planning (Planning Administration).
Land:	See Appendix 1.
Proposed Development:	The proposal includes: <ul style="list-style-type: none">• Continued underground mining;• Increasing the size of the reject emplacement area;• Using and upgrading the mine's existing infrastructure;• Increasing maximum production rates from 1.8 to 2.95 million tonnes of saleable coal a year;• Hauling coal from the site to the Mount Thorley Coal Loader on public roads until the Applicant can secure access to an operational rail coal loader in the vicinity of the site;• Hauling coal from the site by rail once the Applicant secures access to an operational rail coal loader in the vicinity of the site;• Extending haulage operations from 20 hours a day, 6 days a week to 24 hours a day, 7 days a week; and• Operating the mine 24 hours a day, 7 days a week.
State Significant Development:	The proposal is classified as State significant development, under Section 76A(7) of the <i>Environmental Planning and Assessment Act 1979</i> , because it would offer continued employment for 140 employees, and consequently satisfies the criteria in <i>State Environmental Planning Policy No. 34 - Major Employment Generating Industrial Development</i> .

SCHEDULE 2 DEFINITIONS

AEMR	Annual Environmental Management Report
Applicant	United Collieries Pty Ltd
BCA	Building Code of Australia
Bore	Any bore or well or excavation or other work connected or proposed to be connected with sources of sub-surface water, and used or proposed to be used or capable of being used to obtain supplies of such water whether the water flows naturally at all times or has to be raised with wholly or at times by pumping or other artificial means
CCC	Community Consultative Committee
Council	Singleton Shire Council
DA	Development Application
Day	Day is defined as the period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
DEC	Department of Environment and Conservation
Department	Department of Infrastructure, Planning and Natural Resources
Director-General	Director-General of the Department of Infrastructure, Planning and Natural resources, or her delegate
DMR	Department of Mineral Resources
EIS	Environmental Impact Statement
EMP	Environmental Management Plan
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Evening	Evening is defined as the period from 6pm to 10pm
First Workings	Underground workings which establish access to the coal resource area
GTA	General Term of Approval
Land	Land means the whole of a lot in a current plan registered at the Land Titles Office at the date of this consent
Minister	Minister for Infrastructure and Planning, or his delegate
MOP	Mining Operations Plan
MSB	Mine Subsidence Board
Night	Night is defined as the period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
PCA	Principal Certifying Authority appointed under Section 109E of the Act
Privately-owned land	Land excluding land owned by a mining company, where: <ul style="list-style-type: none"> • A private agreement does not exist between the Applicant and the land owner; and • There are no land acquisition provisions requiring the Applicant to purchase the land upon request from the land owner
RTA	Roads and Traffic Authority
Site	Land to which the DA applies
Surface colliery holding	The United Colliery Holding (as defined under the <i>Mining Act 1992</i>)
Vacant land	Vacant land is defined as the whole of the lot in a current plan registered at the Land Titles Office that does not have a dwelling situated on the lot and is permitted to have a dwelling on that lot at the date of this consent.

SCHEDULE 3 ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

1. The Applicant shall implement all practicable measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or decommissioning of the development.

Terms of Approval

2. The Applicant shall carry out the development generally in accordance with the:
 - (a) DA 410-11-2002;
 - (b) EIS titled *United Colliery - Extension of Mining Operations*, volumes 1-3, dated November 2002, and prepared by HLA-Envirosciences Pty. Ltd.;
 - (c) Report titled *United Collieries EIS – Additional Acoustical Information*, dated 18 March 2003, and prepared by HLA-Envirosciences Pty. Ltd.;
 - (d) Report titled *Supplementary Report on Air Quality Assessment, Proposed Expansion United Collieries, Warkworth, NSW*, dated 18 March 2003, and prepared by HLA-Envirosciences Pty. Ltd.;
 - (e) Letter from United Collieries to the Department, dated 29 May 2003, containing additional information on hazards, surface water monitoring, groundwater monitoring, subsidence, and the Grey-crowned Babbler;
 - (f) Letter from HLA-Envirosciences Pty. Ltd. to United Collieries, dated 2 July 2003, containing additional information traffic noise;
 - (g) Letter from Umwelt Environmental Consultants to the Department, dated 20 August 2003;
 - (h) Letter from United Collieries to the Department, dated 29 August 2003;
 - (i) Letter from Umwelt Environmental Consultants to the Department, dated 4 September 2003;
 - (j) Letter from United Collieries to the Department, dated 22 October 2003; and
 - (k) Conditions of this consent.
3. If there is any inconsistency between the above, either the conditions of this consent or the most recent document shall prevail to the extent of the inconsistency.
4. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) Any reports, plans or correspondence that are submitted in accordance with this consent; and
 - (b) The implementation of any actions or measures contained in these reports, plans or correspondence.

Note: Before any mining is carried out in accordance with this consent, the Applicant is required to get a Mining Operations Plan approved by the DMR.

Limits of Approval

5. With regards to mining-related development, this consent lapses at the end of 2012.
6. The Applicant shall not produce more than 2.95 million tonnes of saleable coal a year from the development.

Surrender of Consents

7. The Applicant shall surrender all the previous development consents issued for the United Colliery as directed by the Director-General, in accordance with Clause 97 of *EP&A Regulation*.

Structural Adequacy

8. The Applicant shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.

Notes:

- *Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.*
- *Part 8 of the EP&A Regulation sets out the detailed requirements for the certification of development.*

- *The development is located in the Patrick Plains Mine Subsidence District. Under Section 15 of the Mine Subsidence Act 1961, the Applicant is required to get the Mine Subsidence Board's approval before constructing or relocating any improvements on the site.*

Demolition

9. The Applicant shall ensure that all demolition work is carried out in accordance with AS 2601-2001: *The Demolition of Structures* or its latest version.

Operation of Plant and Equipment

10. The Applicant shall ensure that all plant and equipment at the site, or used in connection with the development, are:
 - (a) Maintained in a proper and efficient condition; and
 - (b) Operated in a proper and efficient manner.

Community Enhancement Contribution

11. Within 6 months of the date of this consent, the Applicant shall pay Council up to \$15,000 for water quality enhancement works in either the Hunter River or Wollombi Brook. If Council has not carried out these enhancement works within 12 months of payment, the Applicant may retrieve the funds from the Council.

SCHEDULE 4 SPECIFIC ENVIRONMENTAL CONDITIONS

TRAFFIC & TRANSPORT

Road Works - Golden Highway

1. ¹Within 12 months of the date of this consent, the Applicant shall:
 - (a) Upgrade the United Haul Road intersection with the Golden Highway to a full seagull intersection with raised medians, a left-in deceleration lane, and left-out acceleration lane;
 - (b) Install street lighting at the United Haul Road intersection with the Golden Highway; and
 - (c) Upgrade the Comelroi Road intersection with the Golden Highway to an RTA-type AUR standard;
to the satisfaction of the RTA.
2. The Applicant shall bear all the costs associated with the design, survey and construction of these road works.
3. The Applicant shall ensure that these road works comply with the RTA's *Road Design Guide*, or in the absence any documented reference, the Austroads Design Standards, in particular the *Guide to Traffic Engineering* and *Guide to Geometric Design of Rural Roads*.
4. Before carrying out any of these road works, the Applicant shall submit detailed engineering plans and a Traffic Control Plan to the RTA for approval.

Note: For more information on the RTA's assessment process see the RTA's publication "Private Sector Development Work on the Road Network – Developer's Notes".

Road Works - Haul Road

5. Within 6 months of the date of this consent, the Applicant shall tar seal the first 200 metres of the United Haul Road from the Golden Highway intersection in consultation with Council, and to the satisfaction of the Director-General.

Coal Haulage

6. The Applicant shall carry out all reasonable endeavours to secure access to any approved rail coal loader in the vicinity of the site (excluding the Mount Thorley Coal Loader), to the satisfaction of the Director-General.
7. The Applicant shall cease all coal haulage on public roads as soon as it secures access to an operational rail coal loader in the vicinity of the site (excluding the Mount Thorley Coal Loader), except in an emergency, and as agreed by the Director-General in consultation with Council.
8. From the date of this consent, the Applicant shall at the end of each year procure a bank to issue a bank guarantee in favour of the Applicant to secure access to any approved rail coal loader in the vicinity of the site (excluding the Mount Thorley Coal Loader). The sum of the bank guarantee is to be calculated in the amount of 10 cents for every tonne of saleable coal transported from the development.
9. If no rail coal loader is operational within 3 years of the date of this consent, the Applicant shall submit a report to the Director-General outlining the alternatives to road haulage, and describing the proposed arrangements for transporting coal from the site. The Applicant shall comply with any reasonable requirements the Director-General makes after reviewing this report.
10. The Applicant shall pay Council 0.5 cents for each tonne of product coal hauled along Council roads to the Mount Thorley Coal Loader, in accordance with Council's Section 94 Contribution Plan.

Note: This contribution is subject to indexation by the Implicit Price Deflator, as published by the Australian Bureau of Statistics.

11. The Applicant shall ensure that all loaded coal haulage vehicles entering or leaving the site are covered.

¹ Incorporates the RTA GTAs

Coal Haulage Vehicle Management Protocol

12. Within 6 months of the date of this consent, the Applicant shall prepare and implement a Coal Haulage Vehicle Management Protocol to reduce the impacts of coal haulage traffic from the development on public roads to the satisfaction of the Director-General.

Monitoring

13. The Applicant shall:
 - (a) Keep detailed records of the:
 - Amount of coal produced each year; and
 - Number of coal haulage truck movements generated each day by the development; and
 - (b) Include these records in the AEMR.

Parking

14. The Applicant shall provide sufficient parking on-site for all mine-related traffic.

SUBSIDENCE

15. The Applicant shall ensure that:
 - (a) The first workings beneath the Wollombi Brook alluvium are long-term stable; and
 - (b) The development does not cause any induced hydraulic connections with the alluvial aquifer of Wollombi Brook, or any other alluvial groundwater resources on the site.
16. The Applicant shall prepare a First Workings Hazard Management Plan for the first workings beneath the Wollombi Brook alluvium. This plan shall:
 - (a) Describe in detail how the first workings will be managed and monitored to ensure the development complies with Condition 15; and
 - (b) Describe what contingency measures would be implemented if any non-compliance occurs. The Applicant shall not carry out any first working development beneath the Wollombi Brook alluvium before the Chief Inspector of Coal Mines has approved this plan, in consultation with the Department.
17. The Applicant shall continue to implement or amend the existing agreements with Wambo Coal Pty Ltd to address the interactions between the two mines prior to the commencement of, and during, longwall mining beneath land owned by Wambo Coal Pty Ltd. If during the course of preparing or implementing management plans under the agreements, there is a dispute between the parties about any aspect of a plan, then either party may refer the matter to the Area Manager of the DMR for resolution.

GROUNDWATER

Note: The Applicant is required to obtain a licence from Department under Part 5 of the Water Act 1912 for bores, wells and excavations that will intersect the groundwater table.

Impact Assessment Criteria

18. The Applicant shall establish groundwater impact assessment criteria for the development to the satisfaction of the Director-General.

Water Extraction Limits

19. The Applicant shall comply with the extraction limits detailed in any licence held for the development under Part 5 of the *Water Act 1912*.

Operating Conditions

20. The Applicant shall ensure that any works located within the Wollombi Brook floodplain that are used to convey, distribute, or store groundwater extracted during the development do not obstruct the free passage of floodwaters in, to, or from the Wollombi Brook.

Monitoring

21. The Applicant shall:
 - (a) Measure the quantity of groundwater extracted by the development; and
 - (b) Conduct quarterly monitoring of groundwater levels and groundwater quality up and down gradient of the development, to the satisfaction of Director-General.

22. Within 6 months of the date of this consent, the Applicant shall submit a detailed Groundwater Monitoring Program to the Department, which has been prepared in consultation with DEC and includes the groundwater impact assessment criteria for the development.

Investigations

23. If any landowner, other than a mining company, within a 5 kilometre radius of longwall mining associated with the development claims that the development is adversely affecting his/her groundwater supply, the Applicant shall:
- (a) Commission a suitably qualified person within 14 days of receiving this claim in writing – whose appointment is acceptable to both parties – to investigate the claim in detail; and
 - (b) Give the landowner a copy of the groundwater investigation report within 14 days of receiving this report.

If this investigation confirms the landowner's claim, and both parties agree with the findings of the report, then the Applicant shall provide the landowner with a replacement water supply or suitable compensation, to the satisfaction of Director-General.

If the Applicant or the landowner disagrees with the findings of the report, then either party may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (See Appendix 2).

SURFACE WATER

Pollution of Waters

24. Except as may be expressly provided by a DEC licence, the Applicant shall comply with Section 120 of the *Protection of the Environment Operations Act 1997* during the carrying out of the development.

Impact Assessment Criteria

25. The Applicant shall establish a set of surface water impact assessment criteria for the surface water monitoring locations determined in consultation with the DEC, and to the satisfaction of the Director-General.

Transfer of Water

26. During the development, the Applicant may transfer water to, and receive water from, the Hunter Valley Operations and Wambo mines.

Operating Conditions

27. The Applicant shall take all practicable measures to minimise the diversion of run-on water into the mine water management system.

Monitoring

28. ²The Applicant shall measure the following parameters in the Wollombi Brook and North Wambo Creek at locations to be determined in consultation with the DEC:
- (a) Non-filterable residue;
 - (b) pH; and
 - (c) Conductivity.
29. The Applicant shall establish a network of water meters to measure the following on a monthly basis:
- (a) Water use on-site;
 - (b) Dam and water structure storage levels; and
 - (c) Transfers of water between the mine, and the Hunter Valley Operations and Wambo mines.
30. Within 6 months of the date of this consent, the Applicant shall submit a detailed Surface Water Monitoring Program to the Department, which has been prepared in consultation with DEC and includes the surface water impact assessment criteria for the development.

² Incorporates DEC GTA

Site Water Balance Review

31. Each year, the Applicant shall:
- (a) Review the site water balance for the development against the predictions in the EIS;
 - (b) Recalculate the site water balance for the development³; and
 - (c) Report on the results of this review in the AEMR.

EROSION AND SEDIMENT CONTROL

32. The Applicant shall implement all practicable measures to minimise soil erosion and the discharge of sediments and water pollutants from the site.
33. Within 6 months of the date of this consent, the Applicant shall prepare an Erosion and Sediment Control Plan for the development to the satisfaction of the Director-General. This plan must:
- (a) Be consistent with the requirements in the Department's draft guideline for the *Establishment of Stable Drainage Areas on Rehabilitated Mine Sites*, and the Department of Housing's *Managing Urban Stormwater: Soils and Construction* manual;
 - (b) Identify the development that could cause soil erosion or discharge sediment or water pollutants from the site;
 - (c) Describe the location and capacity of all erosion and sediment control structures, and nominate which, if any, of these structures would be used as water sources for the development;
 - (d) Describe in detail what actions and measures would be implemented to minimise soil erosion and the discharge of sediments or water pollutants from the site; and
 - (e) Describe how the effectiveness of these actions and measures would be monitored during the development.

NOISE

Impact Assessment Criteria

34. ⁴The Applicant shall ensure that the noise generated by the development does not exceed the criteria in Table 1 at any privately-owned residence.

Day/Evening <i>ng</i> <i>L_{Aeq(15 minute)}</i>	Night		Land Number
	<i>L_{Aeq(15 minute)}</i>	<i>L_{A1(1 minute)}</i>	
39	39	47	<i>H Kannar (Location 3)</i>
38	38	47	<i>Warkworth Village⁵</i>
35	35	45	<i>All other residential or sensitive receptors</i>

Table 1: Noise impact assessment criteria

Notes:

- a) Noise from the development is to be measured at the most affected point on or within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary, to determine compliance with the *L_{Aeq(15 minute)}* noise limits in the above table. If it can be demonstrated that direct measurement of noise from the development is impractical, the DEC may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.
- b) Noise from the development is to be measured at 5 metres from the dwelling façade to determine compliance with the *L_{A1(1 minute)}* noise limits in the above table.

³ These calculations must exclude the clean water system, including any sediment control structures, and any dams in the mine lease area which fall under the Maximum Harvestable Right Dam Capacity; include any dams that are licensable under Section 205 of the Water Act 1912, and water harvested from any non-harvestable rights dam on the mine lease area; address balances of inflows, licenced water extractions, and transfers of water from the site to other sites; include an accounting system for water budgets; and include a salt budget.

⁴ Incorporates DEC GTA

⁵ Warkworth Village includes the residential or noise sensitive receptors within the area bounded by the Warkworth coal mine, Ross Hawkes's property "Springwood", Wollombi Brook, and the Henderson's property (excluding the Kannar property).

- c) The noise emission limits identified in the above table apply under meteorological conditions of:
- Wind speeds of up to 3 m/s at 10 metres above ground level;
 - Temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2m/s at 10 metres above ground level.
35. The Applicant shall ensure that the noise from traffic generated by the development does not exceed the criteria in Table 2 at any privately-owned residence.

Day/Evening <i>L_{Aeq}(1 hour)</i>	Night <i>L_{Aeq}(1 hour)</i>
58.5	53.5

Table 2: Road traffic noise criteria

Land Acquisition Criteria

36. The land acquisition criteria for noise generated by the development are listed in Table 3⁶.

Day/Evening/Night <i>L_{Aeq}(15 minute)</i>	Property
43	H Kannar Warkworth Village
40	All other residential or sensitive receptors

Table 3: Land acquisition criteria

Monitoring

37. During the development, the Applicant shall carry out quarterly attended monitoring at the Warkworth Village to the satisfaction of the Director-General, in general accordance with the NSW Industrial Noise Policy and AS 1055: Acoustics – Description and Measurement of Environmental Noise.
38. Within 6 months of the date of this consent, the Applicant shall submit a detailed Noise Monitoring Program for the development to the Department, which has been prepared in consultation with DEC and includes a detailed noise monitoring protocol for evaluating compliance with the criteria in Tables 1, 2 & 3.

AIR QUALITY

Impact Assessment Criteria

39. The Applicant shall ensure that the air pollution generated by the development does not exceed the criteria listed in Tables 4, 5, and 6 at any privately-owned residence.

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	30 µg/m ³

Table 4: Long term impact assessment criteria for particulate matter

⁶ See Notes in Condition 34 for guidance on how to interpret this Table.

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM ₁₀)	24 hour	50 µg/m ³

Table 5: Short term impact assessment criterion for particulate matter

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m ² /month	4 g/m ² /month

Table 6: Long term impact assessment criteria for deposited dust

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 1991, AS 3580.10.1-1991: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

Land Acquisition Criteria

40. The land acquisition criteria for air pollution generated by the development are listed in Tables 7, 8 and 9.

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	30 µg/m ³

Table 7: Long term land acquisition criteria for particulate matter

Pollutant	Averaging period	Criterion	Percentile ¹	Basis
Particulate matter < 10 µm (PM ₁₀)	24 hour	150 µg/m ³	99 ²	Total ³
Particulate matter < 10 µm (PM ₁₀)	24 hour	50 µg/m ³	98.6	Increment ⁴

Table 8: Short term land acquisition criteria for particulate matter

¹Based on the number of block 24 hour averages in an annual period.

²Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the Director-General in consultation with the DEC.

³Background PM₁₀ concentrations due to all other sources plus the incremental increase in PM₁₀ concentrations due to the mine alone.

⁴Incremental increase in PM₁₀ concentrations due to the mine alone.

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m ² /month	4 g/m ² /month

Table 9: Long term land acquisition criteria for deposited dust

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 1991, AS 3580.10.1-1991: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

Monitoring

41. ⁷The Applicant shall monitor (by sampling and obtaining results by analysis) the concentration of each pollutant in Table 9 at locations approved by the DEC, using the specified units of measure, averaging period, frequency, and sampling method in Table 10.

Pollutant	Units of measure	Averaging period	Frequency	Sampling method ¹
Dust deposition	g/m ² /month	Month, annual	Continuous	AM-19
TSP matter	µg/m ³	24 hour, annual	1 day in 6	AM-15
PM ₁₀	µg/m ³	24 hour, annual	1 day in 6	AS3580.9.8 – 2001 ²
Siting	-		-	AM-1

Table 10: Air quality monitoring

¹ NSW DEC, 2001, *Approved Methods for the Sampling and Analysis of Air Pollutants in NSW*.

² Standards Australia, 2001, AS3580.9.8-2002, *Method for Sampling and Analysis of Ambient Air - Determination of Suspended Particulate Matter - PM₁₀ Continuous Direct Mass Method using a Tapered Element Oscillating Microbalance Analyser, or any other method that is approved by the DEC and the Director-General*.

42. Within 6 months of the date of this consent, the Applicant shall submit a detailed Air Quality Monitoring Program for the development to the Department, which has been prepared in consultation with DEC and includes a detailed air quality monitoring protocol for evaluating compliance with the criteria in Tables 4-9.

FAUNA & FLORA

Compensatory Habitat

43. The Applicant shall establish at least 18.5 hectares of compensatory habitat on the surface colliery holding to the satisfaction of the Director-General, to replace the woodland vegetation removed by the development.

Compensatory Habitat Plan

44. Within 6 months of the date of this consent, the Applicant shall submit a Compensatory Habitat Plan to the Department. This plan must:
- Describe the compensatory habitat proposal;
 - Establish baseline data for the existing habitat in the proposed compensatory habitat areas;
 - Describe how the compensatory habitat proposal would be implemented;
 - Set completion criteria for the compensatory habitat proposal; and
 - Describe how the performance of the compensatory habitat management proposal would be monitored over time.

Reporting

45. The Applicant shall include a progress report on the implementation of the compensatory habitat proposal in the AEMR.

ABORIGINAL

Consent to Destroy

46. ⁸DEC will issue consents, under Section 90 of the *National Parks & Wildlife Act 1974*, to destroy the following Aboriginal sites and deposits between them: RBC24, RBC56, RBC57, RBC58, RBC59, United 1,2,3 (see Figure 7.3).

⁷ Incorporates DEC GTA

⁸ Incorporates DEC GTA

Cultural Salvage

47. ⁹ Before it destroys the archaeological sites listed in Condition 46, the Applicant shall allow local Aboriginal groups to collect, salvage, and/or record material from these sites to the satisfaction of the DEC.

Trust Fund Contribution

48. Within 6 months of the date of this consent, or as agreed otherwise by the Director-General, the Applicant shall contribute \$50,000 to the Hunter Aboriginal Cultural Heritage Trust Fund for further investigations into Aboriginal cultural heritage, as defined by the Trust Deed.

WASTE MANAGEMENT

49. The Applicant shall not cause, permit or allow any waste generated outside the mine to be received at the mine for storage, treatment, processing, reprocessing or disposal, or any waste generated at the mine to be disposed of at the mine, except as expressly permitted by a DEC licence.

Note: This condition only applies to the storage, treatment, processing, reprocessing, or disposal of waste that requires a licence under the Protection of the Environment Operations Act 1997.

VISUAL IMPACT

Visual Amenity

50. The Applicant shall maintain the existing vegetation along the boundary with the Golden Highway, and replace any vegetation removed during the road works referred to in this consent, to the satisfaction of the Director-General.

Lighting Emissions

51. All external lighting associated with the development shall comply with *Australian Standard AS4282(INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting* or its latest version.

HAZARDS MANAGEMENT

Spontaneous Combustion

52. The Applicant shall:
- Take the necessary measures to prevent, as far as is practical, spontaneous combustion on the site; and
 - Manage any spontaneous combustion on-site to the satisfaction of DMR.

Dangerous Goods

53. The Applicant shall ensure that the storage, handling, and transport of:
- Dangerous goods is done in accordance with the relevant *Australian Standards*, particularly *AS1940* and *AS1596*, and the *Dangerous Goods Code*; and
 - Explosives are carried out in accordance with the requirements of DMR.

BUSHFIRE MANAGEMENT

54. The Applicant shall:
- Ensure that the development is suitably equipped to respond to any fires on the surface colliery holding;
 - Assist the Rural Fire Service and emergency services as much as possible if there is a fire on-site during the development.

REHABILITATION

55. The Applicant shall:
- Rehabilitate all mining areas in accordance with the requirements of any Mining Lease granted by the Minister for Mineral Resources, having regard to the *Synoptic Plan – Integrated Landscapes for Mine Site Rehabilitation*; and
 - Ensure that the progressive rehabilitation is carried out to the satisfaction of the DMR.

⁹ Incorporates DEC GTA

**SCHEDULE 5
ADDITIONAL PROCEDURES FOR AIR QUALITY & NOISE MANAGEMENT**

Notify Landowners

1. If the results of the air quality and/or noise monitoring required in Schedule 4 suggest that the air pollution and/or noise generated by the development are greater than the air quality and/or noise impact assessment criteria in Schedule 4, then the Applicant shall notify the relevant landowners and/or existing or potential tenants (including tenants of mine-owned properties) accordingly on a quarterly basis.
2. Within 3 months of receipt of monitoring results that indicate an exceedance of modelled impacts, the Applicant shall develop a procedure in consultation with DEC and NSW Health, for notifying the landowners and tenants referred to in Condition 2. This procedure must ensure that:
 - (a) All existing and potential (prior to signing a residential tenancy agreement to occupy the residence) tenants are advised in writing about: the air quality impacts likely to occur at the residence during the operational life of the mine; and the likely health and amenity impacts associated with exposure to particulate matter;
 - (b) The written advice in (a) is based on current air quality monitoring data, dispersion modelling results, research and literature; and
 - (c) There is an ongoing process for providing current air quality monitoring data, dispersion modelling results, research and literature to the tenants.

Independent Review

3. If a landowner other than a mining company considers the development to be exceeding the air quality and/or noise impact assessment criteria listed in Schedule 4 at his/her dwelling, or at any proposed dwelling on his/her vacant land, then he/she may ask the Applicant for an independent review of the air pollution and/or noise impacts of the development on his/her dwelling, or proposed dwelling.

If the Director-General is satisfied that an independent review is warranted, the Applicant shall:

- (a) Consult with the landowner to determine his/her concerns; and
- (b) Commission a suitably qualified person – whose appointment has been approved by the Director-General – to conduct air quality and/or noise monitoring at the relevant dwelling to determine whether the development is complying with the relevant impact assessment criteria, and identify the source(s) and scale of any air quality and/or noise impact at the dwelling, and the development's contribution to this impact.

Within 14 days of receiving the results of this independent review, the Applicant shall give a copy of these results to the Director-General and landowner.

4. If the independent review (referred to in Condition 4) determines that the development is complying with the relevant impact assessment criteria listed in Schedule 4 at the dwelling, then the Applicant may discontinue the independent review with the approval of the Director-General.
5. If the independent review (referred to in Condition 4) determines that the development is not complying with the relevant impact assessment criteria listed in Schedule 4 at the dwelling, and that the development is primarily responsible for this non-compliance, the Applicant shall:
 - (a) Take all practicable measures, in consultation with the landowner, to ensure that the development complies with the relevant impact assessment criteria; and conduct further air quality and/or noise monitoring at the dwelling to determine whether these measures ensure compliance; or
 - (b) Secure a written agreement with the landowner to allow exceedances of the air quality and/or noise impact assessment criteria listed in Schedule 4.

If the additional monitoring referred to above subsequently determines that the development is complying with the relevant impact assessment criteria listed in Schedule 4 at the dwelling, then the Applicant may discontinue the independent review with the approval of the Director-General.

If the measures referred to in (a) do not ensure compliance with the air quality and/or noise land acquisition criteria listed in Schedule 4 at the dwelling, and the Applicant cannot secure a written agreement with the landowner to allow exceedances of the air quality and/or noise impact assessment criteria listed in Schedule 4, then the Applicant shall, upon receiving a written request from the landowner, acquire all or part of the landowner's land in accordance with the procedures in Conditions 9-11 below.

6. If the independent review determines that the development is not complying with the air quality and/or noise impact assessment criteria listed in Schedule 4 at the dwelling, but that several mines are responsible for this non-compliance, then the Applicant shall, with the agreement of the landowner and other mine(s), prepare and implement a Cumulative Air Quality and Noise Impact Management Plan to the satisfaction of the Director-General. This plan must provide details of the joint approach to be adopted by the Applicant and other mine(s) to manage cumulative air quality and/or noise impacts at the landowner's dwelling, and the acquisition of any land.

If the Applicant is unable to finalise an agreement with the landowner and/or other mine(s), and/or prepare a Cumulative Air Quality and Noise Impact Management Plan, then the Applicant or landowner may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process.

If, following the Independent Dispute Resolution Process, the Director-General decides that the Applicant shall acquire all or part of the landowner's land, then the Applicant shall acquire this land in accordance with the procedures in Conditions 8 - 10 below.

7. If the landowner disputes the results of the independent review (referred to in Condition 4), either the Applicant or the landowner may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process.

Land Acquisition

8. If the independent review determines that the development is not complying with the air quality and/or noise impact assessment criteria listed in Schedule 4 at the dwelling, within 6 months of receiving a written request from the landowner, the Applicant shall pay the landowner:

- (a) The current market value of the landowner's interest in the land at the date of this consent, as if the land was unaffected by the development the subject of the DA, having regard to the:
- Existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
 - Presence of improvements on the land and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date;
- (b) The reasonable costs associated with:
- Relocating within the Singleton local government area, or an adjacent local government area determined by the Director-General;
 - Obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is required; and
 - Reasonable compensation for any disturbance caused by the land acquisition process.

However, if within 6 months of receiving this written request, the Applicant and landowner cannot agree on the acquisition price of the land, and/or the terms upon which the land is to be acquired, then either party may refer the matter to the Director-General for resolution.

Upon receiving such a request, the Director-General shall request the President of the Australian Institute of Valuers and Land Economists to appoint a qualified independent valuer or Fellow of the Institute, to consider submissions from both parties, and determine a fair and reasonable acquisition price for the land, and/or terms upon which the land is to be acquired.

If either party disputes the independent valuer's determination, then the independent valuer must refer the matter back to the Director-General.

Upon receiving such a referral, the Director-General shall appoint a panel to determine a fair and reasonable acquisition price for the land, and/or the terms upon which the land is to be acquired, comprising the:

- (i) Appointed independent valuer,
- (ii) Director-General or her nominee, and
- (iii) President of the Law Society of NSW or his nominee.

Within 14 days of receiving the panel's determination, the Applicant shall make a written offer to purchase the land at a price not less than the panel's determination.

If the landowner refuses to accept this offer within 6 months of the date of the Applicant's offer, the Applicant's obligations to acquire the land shall cease, unless otherwise agreed by the Director-General.

9. The Applicant shall bear the costs of any valuation or survey assessment requested by the independent valuer, panel, or the Director-General and the costs of determination referred to in Condition 9.
10. If the Applicant and landowner agree that only part of the land should be acquired, then the Applicant shall pay all reasonable costs associated with obtaining Council approval for any plan of subdivision, and registration of the plan at the Office of the Registrar-General.

SCHEDULE 6
ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING & REPORTING

ENVIRONMENTAL MANAGEMENT STRATEGY

1. Within 6 months of the date of this consent, the Applicant shall update the existing Environmental Management Strategy for the development to the satisfaction of the Director-General. This updated strategy must:
 - (a) Provide the strategic context for environmental management of the development;
 - (b) Identify the statutory requirements that apply to the development;
 - (c) Describe in general how the environmental performance of the development would be monitored and managed during the development;
 - (d) Describe the detailed procedures that would be implemented to:
 - Keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - Receive, handle, respond to, and record complaints;
 - Report any environmental incidents;
 - Resolve any disputes that may arise during the course of the development;
 - Respond to any non-compliance;
 - Manage cumulative impacts; and
 - Respond to emergencies; and
 - (e) Describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development.
2. Within 14 days of the Director-General's approval, the Applicant shall:
 - (a) Send copies of the approved strategy to the relevant agencies, Council, and the CCC; and
 - (b) Ensure the approved strategy is publicly available during the development.

ENVIRONMENTAL MONITORING PROGRAM

3. Within 12 months of the date of this consent, the Applicant shall submit a detailed Environmental Monitoring Program for the development to the Department. This program must consolidate the various monitoring requirements in Schedule 4 of this consent into a single document.
4. The Applicant shall keep this program up to date, in consultation with the Director-General and the relevant agencies, and notify the relevant agencies, Council, CCC, and general public of any changes to the program.
5. The Applicant shall regularly review, and if necessary update, this program in consultation with the Director-General, and notify the relevant agencies, Council, CCC, and general public of any changes to the strategy.

ANNUAL REPORTING

6. The Applicant shall submit an Annual Environmental Management Report to the Director-General and the relevant agencies. This report must:
 - (a) Identify the standards and performance measures that apply to the development;
 - (b) Include a detailed summary of the complaints received during the past year, and compare this to the complaints received in the previous 5 years;
 - (c) Include a detailed summary of the monitoring results on the development during the past year,
 - (d) Include a detailed analysis of these monitoring results against the relevant:
 - Impact assessment criteria;
 - Monitoring results from previous years; and
 - Predictions in the EIS;
 - (e) Identify any trends in the monitoring over the life of the development;
 - (f) Identify any non-compliance during the previous year; and
 - (g) Describe what actions were, or are being, taken to ensure compliance.

INDEPENDENT ENVIRONMENTAL AUDIT

7. At the end of year 2 of the development, and every 5 years thereafter, unless the Director-General directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
 - (a) Be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General;

- (b) Be consistent with *ISO 14010 – Guidelines and General Principles for Environmental Auditing*, and *ISO 14011 – Procedures for Environmental Auditing*, or updated versions of these guidelines/manuals;
 - (c) Assess the environmental performance of the development, and its effects on the surrounding environment;
 - (d) Assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;
 - (e) Review the adequacy of the Applicant's Environmental Management Strategy and Environmental Monitoring Program; and, if necessary,
 - (f) Recommend measures or actions to improve the environmental performance of the development, and/or the environmental management and monitoring systems.
8. Within 3 months of commissioning this audit, the Applicant shall submit a copy of the audit report to the Director-General, with a detailed response to any of the recommendations contained in the audit report.

COMMUNITY CONSULTATIVE COMMITTEE

9. The Applicant shall ensure that there is a Community Consultative Committee to oversee the environmental performance of the development. This committee shall:
- (a) Be comprised of:
 - 2 representatives from the Applicant, including the person responsible for environmental management at the mine;
 - 1 representative from Council; and
 - Up to 2 representatives from the local community, whose appointment has been approved by the Director-General in consultation with the Council;
 - (b) Be chaired by the representative from Council;
 - (c) Meet at least twice a year; and
 - (d) Review and provide advice on the environmental performance of the development, including any construction or environmental management plans, monitoring results, audit reports, or complaints.
10. The Applicant shall, at its own expense:
- (a) Ensure that 2 of its representatives attend the Committee's meetings;
 - (b) Provide the Committee with regular information on the environmental performance and management of the development;
 - (c) Provide meeting facilities for the Committee;
 - (d) Arrange site inspections for the Committee, if necessary;
 - (e) Take minutes of the Committee's meetings;
 - (f) Make these minutes available to the public for inspection within 14 days of the Committee meeting, or as agreed to by the Committee;
 - (g) Respond to any advice or recommendations the Committee may have in relation to the environmental management or performance of the development;
 - (h) Forward a copy of the minutes of each Committee meeting, and any responses to the Committee's recommendations to the Director-General within a month of the Committee meeting.
11. The Applicant shall ensure that the Committee has its first meeting before the Environmental Management Strategy (see Condition 1) is submitted to the Director-General for approval.

**APPENDIX 1
LAND DESCRIPTION**

Parishes of Wambo and Lemington, County of Hunter

Lot No.	Deposited Plan
Pt Lot 2	DP 617852
Pt Lot 9	DP 835812
Lot 180	DP 823775
Pt Lot 4	DP 635392
Pt Lot 5, 6, 7, Pt Lot 8	DP 247239
Pt Lot 92	DP 733895
Lot 7, 38, Pt Lot 39, 42, 43, 45, 46, 54, 55, 56, Pt Lot 60, 61, 100, 101, 103, 104, 109, 110, 111, 112, 131, 134, 135, 147, 148, 149	DP 753792
Lot 1, 2	DP 300990
Pt Lot 1, Pt Lot 2	DP 709722
Pt Lot C	DP 33149
Lot 1, 2	DP 616303
Lot 134	DP 566275
Pt Lot 11	DP 843432
Lot 1, Pt Lot 2	DP 583524
Pt Lot 199	DP 755267
Pt Lot 6, Lot 8, 9	DP 113343
Lot 1, Pt Lot 2	DP 65744
Lot 1/11, 2/11, Pt Lot 1/17, Pt Lot 2/17	DP 759053
Pt Lot 113	DP 617852
Pt Lot 82	DP 548749
Pt Lot 83	DP 548749
Pt Lot 7	DP 3030
Lot 4, Pt Lot 5	DP 542226
Lot 2, 3, 4	DP 720705
Various unformed Crown road reserves	